REMARKS

Claims 1-20 were examined. Applicant has amended claims 2-5, 8 and 12-19. Claim 1 is cancelled. No claims are newly presented. No new matter has been introduced.

Claim objections

The examiner has objected to claims 1, 2, 3, 5 and 16 for informalities. Applicants thank the examiner for the suggested amendments. Claims 1, 2, 3, 5 and 16 have been amended.

Claims 13-19 are objected to under 37 CFR 1.75(c) as being in improper form. Applicants have amended these claims.

Rejections under 35 USC §112

Claim 12 stands rejected under §112, second paragraph, as being indefinite.

Claims 3 and 4 are rejected under §112, second paragraph, as being indefinite.

Rejections under 35 USC §102

Claim 1 stands rejected under §102(b) as anticipated by Aceti et al (2003/0153900). This ground of rejection is respectively traversed.

Rejections under 35 USC §103

Claims 2-3 stand rejected under §103(a) as obvious over Ware et al (2002/0019747) in view of Sahay et al (4,442,972).

Claim 4 stands rejected under §103(a) as obvious over Stevens et al (2004/0176705) in view of Aceti et al (2003/09153900) in view of Luna et al (2002/0123335).

Claim 5 stands rejected under §103(a) as obvious over Bylund et al (2003/0212379) in view of Sahay et al (4,442,972).

Claims 6 and 7 stand rejected under §103(a) as obvious over Aceti et al (2003/0153900) in view of Britt, Jr (2001.0037355).

Claims 8-12 and 20 stand rejected under §103(a) as obvious over Aceti et al (2003/0153900) in view of Ware et al (2002/0019747).

These grounds of rejection are respectively traversed.

In one embodiment of the present invention, as set forth in claim 2, an analyte measurement device is provided that includes, a housing, a plurality of penetrating members positionable in the housing and a penetrating member driver configured to be coupled to penetrating members. A visual display is on the housing. The visual display has at least one visual indicator positioned next to a corresponding marking on the housing. A processor drives the visual display and runs software that is modifiable to provide a variable user interface on the visual display. The processor includes instructions for controlling the penetrating member driver and for determining that a penetrating member has contacted a skin surface.

None of the cited references, singularly or in combination provide a processor, (i) that drives a visual display and runs software which is modifiable to provide a variable user interface on the visual display and (ii) with instructions for controlling a penetrating member driver and determine that a penetrating member has contacted a skin surface.

Aceti et al. discloses an analyte monitoring/drug (pharmaceutical agent) delivery device with a housing that at least partially encloses a plurality of microneedles disposed on a carrier and an electronics portion. The microneedles are in fluid communication with a corresponding microchannel. The microneedles can be extended and retracted individually with an actuator. An electronics portion is provided that includes a processor and associated circuitry.

The processor of Aceti et al. does not have instructions for both controlling the actuator and also determines when the microneedle has contacted a skin surface.

In operation, a single microneedle is moved into the extended position and penetrates the skin. The microneedle penetrates through the skin. The processor does not know when the microneedle has touched the skin. Instead, the actuator drives the microneedle through the skin, but does not determine when the microneedle has made contact with the skin surface.

Ware et al. discloses a system of multiple modules or processes, such as test generation, testing or administering, evaluating and reporting.

The only discussion of a processor is a handheld computer with a central processor unit that is a device in the system.

In the test generation process or module, the system collects data from a pre-existing data pool or database of questions and answers, statistically assesses the data, and forms a test for subsequent use in the testing process and process (or administration and evaluation modules).

The system collects data by generating a survey of questions with a list of possible answers and providing it to one or more survey respondents in order to elicit their responses thereto. The individual questions of the survey are the same as the tests to be subsequently utilized in testing and evaluation. The survey includes one or more questions related to each of one or more domains which are sought to be evaluated by an assessment method.

Sahay et al. is in an entirely different technology, namely thermostats. Sahay et al. does not disclose, suggest, or infer, (i) a processor with instructions for controlling a penetrating member driver that also determines that a penetrating member has contacted a skin surface, (ii) an analyte measurement device with a housing, a plurality of penetrating members positionable in the housing and a penetrating member driver configured to be coupled to penetrating members, (iii) a visual display on the housing with at least one visual indicator positioned next to a corresponding marking on the housing and (iv) a processor that drives the visual display and runs software that is modifiable to provide a variable user interface on the visual display.

Sahay et al. discloses an electronically controlled programmable wall thermostat. The thermostat includes a clock, temperature sensor, means for displaying desired parameters of time and temperature, data entry and storage means for programming the thermostat to maintain desired temperatures during selected time intervals, and a processing means with a memory incorporating a permanently stored program instruction sequence which responds to signals from the temperature sensing means for controlling the heating and cooling systems in accordance with the time-temperature sequence programmed into the thermostat by the user.

Stevens et al. discloses a system for collecting a fluid sample into a sealed cartridge that includes an integrated sample collection mechanism having a shielded

piercing element such as a syringe or lancet assembly which is capable of collecting a fluid sample into a containment chamber. The chamber includes an array of electrical contacts, electrochemical sensors and circuitry configured to electrically couple with a hand-held analytical device such as a personal digital assistant (PDA), which controls the testing of the fluid sample within the cartridge and provides a rapid indication of test results.

Stevens et al. does not provide or suggest, (i) a processor with instructions for controlling a penetrating member driver that also determines that a penetrating member has contacted a skin surface, (ii) an analyte measurement device with a housing, a plurality of penetrating members positionable in the housing and a penetrating member driver configured to be coupled to penetrating members, (iii) a visual display on the housing with at least one visual indicator positioned next to a corresponding marking on the housing and (iv) a processor that drives the visual display and runs software that is modifiable to provide a variable user interface on the visual display.

Luna et al. also does not have the processor and the elements set forth in claim 2 above. Luna et al. discloses an apparatus for provisioning a mobile station over a wireless network.

Bylund et al. does not disclose, suggest, or infer, (i) a processor with instructions for controlling a penetrating member driver that also determines that a penetrating member has contacted a skin surface, (ii) an analyte measurement device with a housing, a plurality of penetrating members positionable in the housing and a penetrating member driver configured to be coupled to penetrating members, (iii) a visual display on the housing with at least one visual indicator positioned next to a corresponding marking on the housing and (iv) a processor that drives the visual display and runs software that is modifiable to provide a variable user interface on the visual display.

Instead, Bylund et al. is an infusion system that has a medication infusion pump worn on the body of a patient. A physiological fluid monitoring device is also worn on the body of the patient for continuous monitoring of at least one characteristic of a physiological fluid. A remote control device remotely controls the medication infusion pump and the physiological fluid monitoring device, wherein the remote control device

comprises a physiological fluid monitoring means for the episodic monitoring of at least one characteristic of physiological fluid.

Britt Jr. discloses an apparatus for announcing a transmission from a caller by vibrating in a predetermined manner associated with the caller. Also disclosed is a method comprising: receiving a transmission from a first caller; identifying the first caller; and vibrating a device in a predetermined manner based on said first caller's identity.

CONCLUSION

Applicants submit this to put the application in condition for allowance.

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, to Deposit Account No. **50-4634**, referencing attorney's docket no. **PEL 2840.**

Respectfully submitted,

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